



**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

**APR 24 2000**

Marti S. Cochran, Esq.  
Arnold & Porter  
555 Twelfth Street, N.W.  
Washington, DC 20004-1206

**RE: MUR 4830 and 4845  
Udall for Us All Committee  
and Carolyn H. Gonzales, Treasurer**

**Dear Ms. Cochran:**

On April 14, 2000, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 434(b), 441a(f), and 441b, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

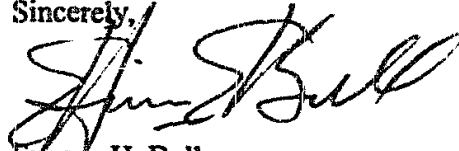
The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

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Enclosed you will find a copy of the fully executed conciliation agreement for your files.  
If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Eugene H. Bull". The signature is fluid and cursive, with the first name "Eugene" and last name "Bull" clearly distinguishable.

Eugene H. Bull  
Attorney

Enclosure  
Conciliation Agreement

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	MURs 4830 and 4845
Udall For Us All Committee and	)	
Carolyn H. Gonzalez, as treasurer	)	

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by John Dendahl, Chairman of the Republican Party of New Mexico (the "RPNM"). The Federal Election Commission ("Commission") found reason to believe that Udall For Us All Committee, and its treasurer violated 2 U.S.C. §§ 434(b), 441a(f), and 441b.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Udall For Us All is the authorized campaign committee for Tom Udall within the meaning of 2 U.S.C. § 432(e)(1).

2. The Federal Election Campaign Act of 1971, as amended (the "Act") provides that contributions which are designated for a particular election, but made after the date of that election, may only be accepted to the extent the contributions do not exceed a committee's "net debts outstanding" for that election. 11 C.F.R. §§ 110.1(b)(3)(i) and 110.2(b)(3)(i). Candidates who participate in both the primary and general elections may pay primary election debts and obligations with funds which represent contributions made with respect to the general election. 11 C.F.R. § 110.1(b)(3)(iv).

3. Pursuant to 11 C.F.R. §§ 110.1(b)(3)(i) and 110.2(b)(3)(i), when a treasurer of a campaign committee receives post-election contributions in the absence of, or in excess of, net debts outstanding, then within ten days of receipt, the treasurer must either deposit the contribution or return it to the contributor. If deposited, the treasurer has sixty (60) days from the date of receipt to obtain a reattribution or redesignation of the contribution to cure the illegality. 11 C.F.R. §§ 103.3(b)(3) and 110.1(b). Those contributions not reattributed or redesignated must be refunded to the contributor within sixty (60) days. 11 C.F.R. § 103.3(b)(3).

4. The Act contemplates candidate loans to a political committee as receipts which must be reported pursuant to Section 434(b). *See also* 11 C.F.R. § 104.3(a)(4)(iv).

5. Corporations and labor organizations are prohibited from making any contribution or expenditure in connection with Federal elections. 2 U.S.C. § 441b. The Act also makes it unlawful for any political committee or federal candidate to receive such a contribution. *Id.* An organization that does not qualify as a political committee under the Act, which makes contributions or expenditures, must establish a separate account to which only funds subject to the prohibitions and limitations of the Act shall be deposited, and from which contributions, expenditures, and exempted payments shall be made. *See* 11 C.F.R. § 102.5(b)(1)(i).

6. No person may make a contribution to a candidate for Federal office, and his authorized campaign committee, in excess of \$1,000 per election. 2 U.S.C. § 441a(a)(1)(A). The term "person" includes committees other than multicandidate political committees. See 2 U.S.C. §§ 431(11) and 441a(a)(2). Pursuant to 2 U.S.C. § 441a(f), candidates and political committees are prohibited from knowingly accepting any contribution in violation of the provisions of Section 441a.

7. In 1998, the Udall Committee incorrectly reversed designations of general election contributions and primary election contributions on its October 15 Quarterly Report.

8. The Committee also received post-primary election contributions, purportedly to retire primary debt. Several of these post-primary contributions were in excess of outstanding primary election debt in violation of the Act, because the Committee's primary debt had been paid with funds raised for the general election. The Committee states that it believed it could continue to raise funds for primary election debt that had been paid with general election funds.

9. One of the contributions to extinguish the Udall Committee's primary debt was a \$5,000 contribution from the South Bay Voter Registration PAC ("SBVR"). The Committee states that it believed the SBVR could lawfully make federal contributions. However, because the SBVR is not a multicandidate political committee pursuant to the Act, it could not make contributions in excess of \$1,000 per election to a political candidate. See 2 U.S.C. § 441a(a)(1)(A). Moreover, the organization is registered with the California Fair Political Practices Commission, and not with the Federal Election Commission. As California law remains uncertain with respect to individual contribution limits, but permits PACs to accept corporate and labor contributions, the SBVR's \$5,000 contribution to the Udall Committee's primary election campaign may have contained impermissible funds. See *Service Employees*

*Int'l Union v. Fair Political Practices Comm'n*, 955 F.2d 1312 (9th Cir. 1992), *cert denied*, 112 S.Ct. 3056-57; *see also* California Government Code §§ 85102(b) and (c), and 85305(c)(1).

10. Finally, the Udall Committee failed to properly report a loan on the summary page of its 1998 July 15 Quarterly Report in the space designated for debts and obligations owed by the Committee. The loan was reported on page two of the detailed report. The Committee also reversed designations of general election contributions and primary election contributions.

V.1. The Udall Committee accepted post-primary contributions for the primary election in excess of net debt outstanding for the primary, including a \$5,000 contribution that may have contained excessive individual contributions, in violation of 2 U.S.C. § 441a(f). The Committee has refunded the primary contributions it accepted post-primary, in excess of net debt outstanding.

2. The Udall Committee accepted \$5,000 from South Bay Voter PAC, in violation of 2 U.S.C. § 441b.

3. The Udall Committee did not properly report a loan, and also did not properly record other contributions it received, in violation of 2 U.S.C. § 434(b).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Six Thousand dollars (\$6,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.


VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement(s) contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

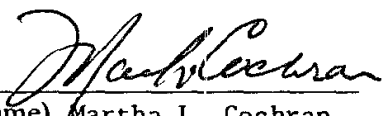
FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner (by LLC)  
Associate General Counsel

2/21/2000  
Date

FOR THE RESPONDENT(S):

  
(Name) Martha L. Cochran  
(Position) Counsel for the Respondents

2/15/2000  
Date